

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7240**

**BILL NUMBER:** HB 1439

**NOTE PREPARED:** Jan 9, 2004

**BILL AMENDED:**

**SUBJECT:** Sheriff's Fees.

**FIRST AUTHOR:** Rep. Alderman

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**     **GENERAL**  
                              **DEDICATED**  
                              **FEDERAL**

**IMPACT:** Local

**Summary of Legislation:** This bill has the following provisions:

- A.     It increases certain fees for service of process by a sheriff.
- B.     It increases the county contribution to the sheriff's department pension trust for service of certain legal documents by a county sheriff.

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:**

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Mortgage Foreclosure Fee:* Currently, the sheriff of a county may charge a fee of \$10 to one owner and \$3 for each additional owner for service of written notice when the sheriff advertises the sale of property as a result of a foreclosed mortgage. As proposed, this fee would be increased to \$50 for one owner and \$10 to each additional owner.

No information is reported on how frequently this fee is collected. The number of mortgage foreclosures in which a final judgment was issued during CY 2002 are included in the *Indiana Judicial Report*. In CY 2002, 15,740 mortgage foreclosures were reportedly disposed in Indiana's trial courts. If all of these foreclosures resulted in a sale of property and each foreclosure involved one owner, the estimated amount of revenue collected from this fee would be \$150,000. If this fee is increased to \$50, the counties could receive \$629,600 in new money (15,740 cases x \$40) that would be deposited in the county general fund and made available

for the sheriffs department.

*Service of Process Fee:* Under the bill, additional fees for serving a process from out-of-state litigants would increase from \$40 to \$50, potentially increasing the revenues. Added revenues would be deposited in the county sheriffs pension trust fund or, if one does not exist, into the county general fund. As of January 2004, 89 counties report operating pension funds for sheriffs. Consequently, the pension funds in these counties would receive more monies. The number of civil suits filed outside of Indiana where a sheriff or employee performs a service of process is not available at the state level.

The State Board of Accounts does not record this specific revenue deposit into the either the sheriffs pension trust fund or the county general fund.

*Service of Legal Documents:* This provision would apply to the 89 counties which operate pension trust funds for the county sheriffs and their employees and, under limited circumstances, could obligate more money for funding sheriffs pension funds and reduce available monies for other programs.

The amount transferred to the pension trust fund would increase from \$12 to \$25 for each claim, potentially increasing the amount of monies from the court fees contributing to the support of the pension funds. There are no statewide data available to indicate how often money is transferred from the county general fund to the sheriffs pension trust fund based on verified service claims.

An actuary familiar with the sheriffs pension plans indicates that 88 of these 89 counties fund their pension programs solely from a line item in the county budget. The transfer of court fee monies is an optional funding source for the pension trust fund, although it is seldom used.

Note: Under current law, \$12 is transferred from the county general fund from court fees deposited in the county general fund when the sheriff completes writs, orders, processes, notices, tax warrants, and other paper completed. The county general fund receives the following shares from courts fees.

Transfer of Monies From Court Fees From County General Fund to Sheriffs Pension Fund				
			Net County Share of Court Fee after Transfer of:	
Fee for:	Fee Amount	County Share	\$12.00	\$25.00
Criminal Costs	\$120	\$32.40	\$20.40	\$7.40
Infraction & Ord. Violations	\$70	\$18.90	\$6.90	(\$6.10)
Juvenile	\$120	\$32.40	\$20.40	\$7.40
Civil	\$100	\$27.00	\$15.00	\$2.00
Small Claims	\$35	\$9.45	(\$2.55)	(\$15.55)
Probate	\$120	\$32.40	\$20.40	\$7.40
Deferred Prosecution	\$50	\$13.50	\$1.50	(\$11.50)

Depending on how frequently these fees are transferred from the county general fund to the sheriffs pension fund and how much the counties directly appropriate to the local pension trust fund, this provision could

potentially have no net effect on county finances but, under limited circumstances, could shift more money to the pension fund and away from other funding options.

**State Agencies Affected:**

**Local Agencies Affected:** County Sheriffs and City and Town Police Departments.

**Information Sources:** State Board of Accounts Audited Annual Reports, CY 2001; *Indiana Handbook of Taxes Revenues and Appropriations, FY 2003*; Elaine Beatty of McCready & Keane, Inc.; 2002 Indiana Judicial Report; Tammy White, State Board of Accounts

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